

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

RANDALL DAVID DUE,

Defendant.

**8:12CR344**

**ORDER**

This matter is before the court sua sponte for consideration of a psychiatric evaluation concerning defendant's present mental condition. On May 19, 2014, the court conducted a pretrial hearing in preparation for trial scheduled for May 27, 2014. During the hearing, the defendant, who is pro se, was unable to appropriately answer questions posed by the court. Likewise, it did not appear that the defendant would be able to follow directions and procedures during his trial, as he was unable to do so in the courtroom. It appears to the court that defendant may presently be suffering from a mental disease or defect. The court finds that defendant's current and past behavior supports the need for a psychiatric evaluation.

The court finds the defendant may presently be suffering from a mental disease or defect that might impair his competency to stand trial. [18 U.S.C. § 4247](#); [18 U.S.C. § 4241](#). The court also finds that a psychiatric and/or psychological evaluation is warranted to determine the defendant's current mental status and to enable the court to determine (1) whether defendant is mentally competent to stand trial; and (2) whether defendant is mentally competent to represent himself at trial. With regard to this second request, the United States Supreme Court has determined that a state court can impose counsel on a defendant with mental illness issues, even though the defendant wants to represent himself.

*Indiana v. Edwards*, 554 U.S. 164, 174 (2008). The Supreme Court further determined that the court can decide if the defendant is competent to represent himself at trial. *Id.*

Further, the court finds that there is a compelling reason for the evaluation to be conducted by a court-appointed psychiatrist. A psychological or psychiatric report shall be provided to the court in accordance with 18 U.S.C. § 4247(c).

The court further finds that in the interest of time and expense the defendant shall be transported by the United States Marshal for the District of Nebraska to Dr. Bruce Gutnik's office at a time and manner to be arranged by the United States Marshal.

THEREFORE, IT IS ORDERED:

1. The defendant shall undergo a pretrial psychiatric evaluation performed by Dr. Bruce Gutnik, M.D., and any consultants he deems appropriate. Such report will be provided to the court and parties on or before **June 27, 2014**.

2. The report shall include the information required pursuant to 18 U.S.C. § 4247(c) and 4241. The report shall also include (a) whether the defendant is mentally competent to stand trial; and (b) whether defendant is mentally competent enough to represent himself at trial.

3. The United States Marshal shall arrange transportation and security to and from Dr. Gutnik's office during regular business hours for the purpose of said evaluation.

4. The court finds that Speedy Trial is waived from this date until the court rules on defendant's competency to stand trial and to represent himself.

Dated this 29th day of May, 2014.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge